

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6455

BILL NUMBER: HB 1125

NOTE PREPARED: Jan 29, 2008

BILL AMENDED: Jan 24, 2008

SUBJECT: Update of References to the Internal Revenue Code.

FIRST AUTHOR: Rep. Goodin

FIRST SPONSOR: Sen. Kenley

BILL STATUS: As Passed House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) The bill provides that for taxable years beginning after December 31, 2007, references in Indiana law to the Internal Revenue Code and related regulations refer to the law and regulations in effect on January 1, 2008. This bill also provides that recreational vehicles and truck campers are subject to an excise tax instead of the property tax on personal property beginning January 1, 2010. It makes an appropriation.

Effective Date: (Amended) January 1, 2008 (retroactive); January 1, 2009.

Explanation of State Expenditures: (Revised) *Excise Tax on RVs and Campers-* Subject to appropriation, the overall net impact projected for the state under the excise tax provision would be increased expenditures of \$120,000 for the Bureau of Motor Vehicles (BMV) in FY 2010, and a savings of \$605,000 in FY 2010 and \$1.2 M in years following for Property Tax Replacement Credits (PTRC).

(Revised) *Property Tax Replacement Credit Savings-* The state pays Property Tax Replacement Credits in the amount of 60% of school General Fund levies attributable to all property. The state also pays 20% of the portion of operating levies (including the remaining 40% of the school General Fund levy) that are attributable to real property and nonbusiness personal property. PTRC is paid from the Property Tax Replacement Fund.

Subject to appropriation, and assuming full funding of these payments in CY 2010, if maximum levies are reduced as a result of this proposal (see *Explanation of Local Revenues*), the amount that the state would save from PTRC payments is estimated at about \$1.2 M per year beginning in CY 2010.

(Revised) *Bureau of Motor Vehicles Expenses* - The BMV would incur additional costs related to the startup and maintenance of the new excise tax program. BMV startup costs are estimated at \$120,000 in FY 2010 for software work. Ongoing expenditures for valuation guides, printing, and decals are estimated at about \$3,500 per year, including the startup year.

Update of References: Additionally, the bill updates the reference to the Internal Revenue Code (IRC) to incorporate all the federal changes made up to January 1, 2008. The current reference to the IRC pertains to all IRC provisions amended and in effect on January 1, 2007. A noncode section of the bill provides that the changes due to the IRC reference update are effective beginning in tax year 2008. The update would include changes as a result of the following federal acts:

- (1) The Small Business and Work Opportunity Tax Act of 2007 (P.L. 110-28), signed into law May 25, 2007.
- (2) The Clean Renewable Energy and Conservation Act of 2007 (P.L. 110-140), signed into law December 19, 2007.
- (3) The Mortgage Forgiveness Debt Relief Act of 2007 (P.L. 110-142), signed into law December 20, 2007.
- (4) The Tax Technical Corrections Act of 2007 (no P.L. number yet), signed into law December 29, 2007.

It is estimated that the fiscal impact from the bill will begin in FY 2009. The estimated fiscal impact of the bill and the federal acts generating the fiscal impact are summarized in the table below. The Clean Renewable Energy Conservation Act and the Tax Technical Corrections Act are not expected to generate a fiscal impact.

Provisions (Revenue impact in millions)	FY 2009
Small Business and Work Opportunity Tax Act	(0.16)
Mortgage Forgiveness Debt Relief Act	
Exclusion of discharged principal residence mortgage debt (expires 12/31/09)	(3.0 - 3.5)
Exclusion of benefits paid to volunteer firefighters or EMTs (expires 12/31/10)	(0.35)
Exclusion of gains from home sale by surviving spouse	(0.01)
Subtotal	(3.4 - 3.9)
Total Impact on State Revenue	(3.5 - 4.0)

The *Small Business and Work Opportunity Tax Act* includes various provisions relating to the tax treatment of Subchapter S Corporations.

The *Mortgage Forgiveness Debt Relief Act* includes provisions excluding from gross income: (1) any income received by a taxpayer by reason of discharge, either in whole or in part, of debt on the taxpayers' principal residence (see discussion below); (2) up to \$500,000 of the gain from the sale of a principal residence by a surviving spouse if the sale takes place within two years of the death of the spouse; and (3) benefits provided to volunteer firefighters and EMS personnel (see discussion below).

Mortgage Discharge Exclusion - The exclusion for discharged mortgage debt is effective under the bill

beginning in 2008 and expires at the end of 2009. Thus, the revenue loss under the bill would occur in FY 2009 and FY 2010. It is important to note that the revenue loss from the mortgage discharge exclusion could be higher than the estimate provided in the table due to the following factors:

- (1) The annual number of foreclosure sales occurring in 2008 and 2009 is higher than recent levels. The revenue loss estimate assumes 3,000 to 3,500 foreclosure sales based on 2007 totals.
- (2) The debt amounts being forgiven by creditors on average are more than assumed for the revenue loss estimate. The revenue loss estimate assumes an average of \$30,000 in debt forgiven on foreclosure sales.
- (3) Mortgage debt is forgiven by creditors under circumstances other than foreclosure sales such as short sales of homes prior to commencing foreclosure proceedings. The number of short sales transactions and other debt forgiveness that may occur is indeterminable.

Volunteer Firefighter/EMS Personnel Exclusion - The exclusion for benefits paid to volunteer firefighters and EMS personnel is effective beginning in 2008 and expires at the end of 2010. Thus the revenue loss from this exclusion would occur from FY 2009 through FY 2011. The exclusion is limited to \$360 per year per volunteer firefighter or EMT. It is estimated that there are approximately 20,000 volunteer firefighters, 8,000 volunteer EMTs, and 500 volunteer paramedics statewide that could potentially qualify for the exclusion.

Revenue from the corporate AGI Tax is distributed to the state General Fund. The revenue from the individual AGI Tax is deposited in the state General Fund (86%) and the Property Tax Replacement Fund (14%).

Explanation of State Revenues: (Revised) *BMV*: Assuming that the BMV administers the collection of the excise tax on these recreational vehicles and campers similar to the collection of auto excise taxes, BMV could receive additional revenue from allowable service charges.

State Fair and State Forestry: The state levies a small tax rate for State Fair and State Forestry. Any reduction in the assessed value base will reduce the property tax revenue for these two funds. The removal of the RV/truck camper AV would cause a revenue reduction of about \$9,464 per year beginning in CY 2009.

Explanation of Local Expenditures: (Revised) This bill requires county auditors and assessing officials to provide the BMV and the DOR with the information from personal property tax returns needed to implement the bill's provisions. Expenditures would be subject to both administrative and legislative actions.

Explanation of Local Revenues: (Revised) Under current law, RVs and truck campers are assessed as personal property. Taxpayers must list this property on an individual-owned property tax return filed with the township assessor. The assessed value of this property becomes part of the tax base, and the taxpayer pays property tax on the RV or camper based on the prevailing property tax rate where the property is located. This bill would remove RVs and truck campers from property taxation and instead require that the owners of this property pay an excise tax beginning in CY 2010.

Based on taxing district-level assessment summaries and estimated 2010 tax rates, the CY 2010 net property tax on RVs and truck campers is estimated at \$8.5 M. The property tax base would be reduced by approximately \$394.3 M.

According to BMV records, there were 37,196 RVs registered in Indiana in 2006. That number has decreased approximately 26% from 2004. The number of truck campers is not known. Because the breakdown of RVs and truck campers by number, age, and original price is unknown, *the revenue generated from the excise tax*

rate structure cannot be estimated.

In CY 2010, maximum permissible levies would be reduced to account for the removal of AV from the RVs and campers. This provision would ensure that property tax rates remain unchanged and that no tax shifting occurs between RV and camper owners and owners of other property. Taxing units may petition the DLGF for an adjustment to their maximum levies in CY 2011 to neutralize the effects of the AV removal and excise tax revenue received under this bill.

Depending on the actual amount of revenue generated from the excise tax on RVs and campers, total local revenue could be the same, higher, or lower under this bill.

The IRC update could potentially affect taxable income of individual taxpayers. The impact on counties imposing local option income taxes is indeterminable and would vary.

State Agencies Affected: DLGF; BMV; Department of Insurance; DOR.

Local Agencies Affected: County Auditors; counties with local option income taxes.

Information Sources: Realtytrac, <http://www.realtytrac.com/>. STATS Indiana, <http://www.stats.indiana.edu/>. U.S. Census Bureau, <http://www.census.gov/>. U.S. Congress, Joint Committee on Taxation, <http://www.house.gov/jct/tableofcnts.html>. Michelle Milliken, Indiana Department of Homeland Security, (317) 234-0945. Joanna Cornwell, Indiana Department of Homeland Security, (317) 234-4554; Local Government Database; Dollyne Sherman, BMV, 317-233-0216.

Fiscal Analyst: Jim Landers, 317-232-9869; Hannah Mongiat, 317-232-9867; David Lusan, 317-232-9592.